

FILED

NOV 27 2024

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY [Signature]
DEPUTY CLERK

David–Anthony; Avila
8651 Crane Road
Oakdale, Calif. [95361]
(209) 595-5597
davidavilla@dairydesigners.com
Sui juris

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

David Avila, et al

PLAINTIFFS,

vs.

NEWREZ LLC, et al,

DEFENDANTS,

Case No.: 2:24-cv-2264-TLN-CSK

PLAINTIFF’S REQUEST FOR THE CLERK
TO ENTER DEFAULT AGAINST
DEFENDANT PEAK FORECLOSURE
SERVICES INC.

THE CLERK OF THE ABOVE-ENTITLED COURT

Pursuant to Federal Rule of Civil Procedure 55(a), PLAINTIFFS hereby respectfully requests that the Clerk enter default in this matter against DEFENDANT PEAK FORECLOSURE SERVICES INC. as to the Complaint (ECF 1) on the ground that PEAK has failed to answer or otherwise respond to the COMPLAINT within the time prescribed by the Federal Rules of Civil Procedure.

On September 13th, 2024, at approximately 3:34 PM, PLAINTIFF served the original complaint and summons on PEAK FORECLOSURE SERVICES INC. through a professional process server.

1 The registered California process server was paid \$105 fee for his services in which he
2 hand-delivered an authorized representative of Peak Foreclosure services Inc. a copy of the
3 lawsuit and summons.

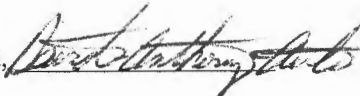
4 On September 23, 2024 the proof of service was filed with a court under document 9,
5 Summons Returned Executed. This filing was entered on the record on September 24th
6 ,2024.

7
8 Under Federal Rule of Civil Procedure 12(a)(4), PEAK was required to answer or
9 otherwise respond to the complaint by October 15th 2024 as of this filing. PEAK has not
10 answered or otherwise responded to the Complaint.

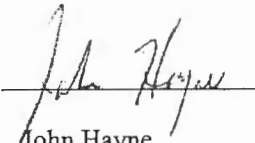
11 This request is based on the accompanying Declaration of Tony Pellegrino, and all
12 pleadings and records on file in this matter.
13
14

15 CONCLUSION

16 For the foregoing reasons, Plaintiff respectfully requests that the Court
17
18
19

20 Respectfully submitted, 

21
22 David-Anthony Avila
23 Sui juris

24
25 
26 John Hayne
27 Sui juris

DECLARATION OF TONY PELLEGRINO

I, Tony Pellegrino, state and declare as follows

1. I make this declaration out of my own personal knowledge.
2. On September 23, 2024 I personally hand-delivered a copy of the proof of summons of service on the fourth floor at the United States District Court in Sacramento, California.
3. On September 13, 2024 a copy of the complaint and summons was served to PEAK FORECLOSURE SERVICES INC. as evidenced by the filing (ECF 9), EXHIBIT 1.
4. As of this filing, peak foreclosure services Inc. has failed to answer or otherwise respond to the complaint and the time limit of response has expired.
5. On the morning of November 27TH, I mailed PEAK FORECLOSURE SERVICES INC. a copy of this request by US mail.

I declare under penalty of perjury that the foregoing is true and correct.

Dated November 27th 2024.

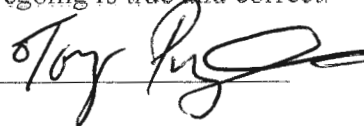

Tony Pellegrino

Exhibit 1

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State, Bar number, and address): Fatherly Freedom Inc PO BOX 60 Twain Harte, CA 95383 TELEPHONE NO.: 209-591-0406 FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): DAVID AVILA, ET AL	FOR COURT USE ONLY <div style="font-size: 2em; font-weight: bold; margin: 10px 0;">FILED</div> <div style="font-size: 1.2em; font-weight: bold; margin: 5px 0;">SEP 23 2024</div> <div style="font-size: 0.8em; margin: 5px 0;">CLERK, U.S. DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA</div> <div style="font-size: 0.8em; margin: 5px 0;">BY <u> </u> DEPUTY CLERK</div>
United States District Court, Eastern District of California STREET ADDRESS: 501 I St. Suite 4-200 MAILING ADDRESS: 501 I St. Suite 4-200 CITY AND ZIP CODE: Sacramento 95814 BRANCH NAME: Robert T. Matsui Federal Courthouse	CASE NUMBER: <div style="font-weight: bold; font-size: 1.1em;">2:24-CN-2264-TLN-CSK</div>
PLAINTIFF/PETITIONER: DAVID AVILA, ET AL DEFENDANT/RESPONDENT: NEWREZ LLC, D/B/A SHELLPOINT MORTGAGE SERVICING, ET AL	Ref. No. or File No.: <div style="font-weight: bold; font-size: 1.1em;">2:24-CN-2264-TLN-CSK</div>
PROOF OF SERVICE OF SUMMONS	

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of (specify documents):
VERIFIED CLAIM FOR DAMAGES; Complaint; Summons
3. a. Party served (specify name of party as shown on documents served):
Peak Foreclosure Services, Inc.
- b. ☒ Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b whom substituted service was made) (specify name and relationship to the party named in item 3a):
4. Address where the party was served:
5900 Canoga Avenue, Suite 220, Woodland Hills, CA 91367
5. I served the party (check proper box)
 - a. ☒ **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): **09/13/2024** at (time): **3:34 PM**
 - b. ☐ **by substituted service.** On (date): _____ at (time): _____ I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3):
 - (1) ☐ **(business)** a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
 - (2) ☐ **(home)** a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
 - (3) ☐ **(physical address unknown)** a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
 - (4) ☐ I thereafter caused to be mailed (by first class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc. § 415.20). Documents were mailed on (date): _____ from (city): _____ or ☐ a declaration of mailing is attached.
 - (5) ☐ I attach a **declaration of diligence** stating actions taken first to attempt personal service.

BY FAX



- c. ☐ **by mail and acknowledgement of receipt of service.** I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
- (1) on (date): (2) from (city):
- (3) ☐ with two copies of the *Notice and Acknowledgement of Receipt* and a postage-paid return envelope addressed to me. (*Attach completed Notice and Acknowledgement of Receipt.*) (Code Civ. Proc., § 415.30)
- (4) ☐ to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40)
- d. ☐ **by other means** (specify means of service and authorizing code section):

☐ Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:

- a. ☐ as an individual defendant.
- b. ☐ as the person sued under the fictitious name of (specify):
- c. ☐ as occupant.
- d. ☒ On behalf of (specify) **Peak Foreclosure Services, Inc.**
under the following Code of Civil Procedure section:

- | | |
|---|---|
| <input checked="" type="checkbox"/> 416.10 (corporation) | <input type="checkbox"/> 415.95 (business organization, form unknown) |
| <input type="checkbox"/> 416.20 (defunct corporation) | <input type="checkbox"/> 416.60 (minor) |
| <input type="checkbox"/> 416.30 (joint stock company/association) | <input type="checkbox"/> 416.70 (ward or conservatee) |
| <input type="checkbox"/> 416.40 (association or partnership) | <input type="checkbox"/> 416.90 (authorized person) |
| <input type="checkbox"/> 416.50 (public entity) | <input type="checkbox"/> 415.46 (occupant) |
| | <input type="checkbox"/> other: |

7. **Person who served papers**

- a. Name: **Christopher Michael Padgett**
- b. Address: **15632 mayall street, north hills, CA 91343**
- c. Telephone number: **818-966-7120**
- d. The fee for service was: **\$ 105.00**
- e. I am:

- (1) ☐ not a registered California process server.
- (2) ☐ exempt from registration under Business and Professions Code section 22350(b).

(3) ☒ registered California process server:

- (i) ☐ owner ☐ employee ☒ independent contractor. For: **ABC Legal Services, LLC**
- (ii) ☒ Registration No.: **2021162522** Registration #: **6779**
- (iii) ☒ County: **County of Los Angeles** County: **Los Angeles**

BY FAX



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8. ☒ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

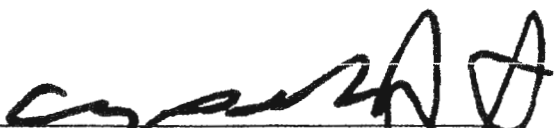
OR

9. ☐ I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: 09/13/2024

Christopher Michael Padgett

(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)


(SIGNATURE)



AVILA et al v. NEWREZ d/b/a SHELLPOINT et al

Case# 2:24-cv-2264-TLN-CSK

I, the undersigned, hereby certify that on October 23, 2024, that a true and correct attached documents:

1. DEFAULT
2. CERTIFICATE OF SERVICE

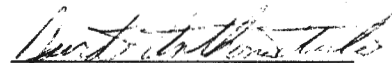
By method(s):

☒ HAND DELIVERY ☐ US Mail ☐ FAX ☐ EMAIL

Is Submitted to:

☐ ATTORNEYS OF DEFENDANTS

☒ UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA



David-Anthony: Avila

8651 Crane Rd.

Oakdale Calif. 95361